

1 Senator Betzold from the Committee on Judiciary, to which
2 was referred

3 S.F. No. 287: A bill for an act relating to civil actions;
4 authorizing the recovery of attorney fees by funeral providers
5 in actions to recover costs of services; proposing coding for
6 new law in Minnesota Statutes, chapter 149A.

7 Reports the same back with the recommendation that the bill
8 be amended as follows:

9 Page 1, lines 10 and 11, delete "is entitled to costs,
10 disbursements, and" and insert "may be awarded"

11 And when so amended the bill do pass. Amendments adopted.
12 Report adopted.

13
14 (Committee Chair)

15
16 January 20, 2005.....
17 (Date of Committee recommendation)

1 Senator Betzold from the Committee on Judiciary, to which
2 was referred

3 S.F. No. 327: A bill for an act relating to human rights;
4 creating a tolling provision for the 12-month determination
5 requirement; allowing the Department of Human Rights to seek
6 sanctions; repealing the 180-day hearing provision; amending
7 Minnesota Statutes 2004, sections 363A.28, subdivision 6;
8 363A.35, subdivision 3; repealing Minnesota Statutes 2004,
9 section 363A.29, subdivision 2.

10 Reports the same back with the recommendation that the bill
11 be amended as follows:

12 Page 5, line 23, after "notify" insert "those who are"

13 And when so amended the bill do pass. Amendments adopted.
14 Report adopted.

15
16 (Committee Chair)

17
18 January 20, 2005.....
19 (Date of Committee recommendation)

1 Senator Betzold from the Committee on Judiciary, to which
2 was referred

3 S.F. No. 74: A bill for an act relating to courts;
4 providing for the Commission on Judicial Selection to recommend
5 to the governor nominees for Tax Court vacancies; amending
6 Minnesota Statutes 2004, section 480B.01, subdivisions 1, 10.

7 Reports the same back with the recommendation that the bill
8 do pass. Report adopted.

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.....
(Committee Chair)

January 20, 2005.....
(Date of Committee recommendation)

start time: 12:15pm
End time: 2:32pm
counter: 2:19

Kathy

02:19:09

Senate Judiciary Committee
January 20, 2005
12:00 Room 112
Agenda

2) Heard
amended

- SF 215 (Moua) relating to human rights, making agency technical changes.
1. ~~Commissioner Velma Korbel, Department of Human Rights~~ Linda Hanson, Dept. of H R.
 2. Jack Horner, Mn Multi Housing Association

1) heard
laid over

- SF 72 (Belanger) Civil penalty for motor fuel.
3. Lance Klatts, Executive Director of MN Service Station Association
 1. ~~Ted Brausen, owner-operator~~ Bob Krogman
 2. Sue Nelson, owner operator

1) and
pass

- SF 74 (Belanger) Tax Court Vacancies.

3) heard
amended,
pass

- SF 287 (Wergin) The recovery of attorney fees by funeral providers.
1. Wesley Siemers, Peterson Johnson Funeral Home
 2. Kelly Guncheon, Ex Director of the Funeral Directors Association
~~Paul Cassidy, Leonard, Street and Deinard~~

1) heard
laid over

- SF 288 (Wergin) Relating to creditors remedies.
2. Al Broberg
 1. Pat Martyn, MN Consumer Finance Conference
~~Eldon Spencer, American Bar Association Consumer Finance Division~~

1) heard
amended

- SF 327 (Marty) Creating a tolling provision for the 12-month determination requirement.
1. Linda Hanson, Director of Policy and Legal Affairs Dept of Human Rights
 2. Katie Engler, Dept. of Admin.

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S.F. No. 72 - Service Charge and Civil Penalty for Receiving Motor Fuel Without Paying

Author: Senator William V. Belanger, Jr.

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: January 14, 2005

Section 1 of S.F. No. 72 increases the civil penalty for taking gasoline without paying for it from \$20 to \$100.

Section 2 makes it explicit that the civil penalty does not bar criminal prosecution.

HW:cs



Senators Belanger and Gerlach introduced--

S.F. No. 72: Referred to the Committee on Crime Prevention and Public Safety.

1 A bill for an act

2 relating to civil actions; increasing the service
3 charge and civil penalty for receiving motor fuel
4 without paying; clarifying that civil liability for
5 this does not bar criminal liability; amending
6 Minnesota Statutes 2004, section 604.15, subdivision
7 2, by adding a subdivision.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

9 Section 1. Minnesota Statutes 2004, section 604.15,
10 subdivision 2, is amended to read:

11 Subd. 2. [ACTS CONSTITUTING.] (a) The owner of a vehicle
12 that receives motor fuel that was not paid for is liable to the
13 retailer for the price of the motor fuel received and a service
14 charge of ~~up-to-\$207-or-the-actual-costs-of-collection-not-to~~
15 ~~exceed-\$30~~ \$100. This charge may be imposed upon the mailing of
16 the notice under subdivision 3, if notice of the service charge
17 was conspicuously displayed on the premises from which the motor
18 fuel was received. The notice must include a statement that
19 additional civil penalties will be imposed if payment is not
20 received within 30 days. Only one service charge may be imposed
21 under this paragraph for each incident.

22 (b) If the price of the motor fuel received is not paid
23 within 30 days after the retailer has mailed notice under
24 subdivision 3, the owner is liable to the retailer for the price
25 of the motor fuel received, the service charge as provided in
26 paragraph (a), plus a civil penalty not to exceed ~~\$100-or-the~~

1 ~~price-of-the-motor-fuel, whichever is greater~~ \$500. The civil
2 penalty may not be imposed until 30 days after the mailing of
3 the notice under subdivision 3.

4 Sec. 2. Minnesota Statutes 2004, section 604.15, is
5 amended by adding a subdivision to read:

6 Subd. 5. [NOT A BAR TO CRIMINAL LIABILITY.] Civil
7 liability under this section does not preclude criminal
8 liability under applicable law.

9 Sec. 3. [EFFECTIVE DATE.]

10 Section 1 is effective July 1, 2005, and applies to acts
11 committed on or after that date. Section 2 is effective the day
12 following final enactment.

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S.F. No. 74 - Tax Court Appointments

Author: Senator William V. Belanger, Jr.

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: January 14, 2005

This bill amends the law dealing with the Commission on Judicial Selection to require that the commission make recommendations to the governor with respect to nominees for Tax Court vacancies.

HW:cs



Senator Belanger introduced--

S.F. No. 74: Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to courts; providing for the Commission on
3 Judicial Selection to recommend to the governor
4 nominees for Tax Court vacancies; amending Minnesota
5 Statutes 2004, section 480B.01, subdivisions 1, 10.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7 Section 1. Minnesota Statutes 2004, section 480B.01,
8 subdivision 1, is amended to read:

9 Subdivision 1. [JUDICIAL VACANCIES.] If a judge of the
10 district court or Workers' Compensation Court of Appeals, or
11 Tax Court dies, resigns, retires, or is removed during the
12 judge's term of office, or if a new district or Workers'
13 Compensation Court of Appeals, or Tax Court judgeship is
14 created, the resulting vacancy must be filled by the governor as
15 provided in this section.

16 Sec. 2. Minnesota Statutes 2004, section 480B.01,
17 subdivision 10, is amended to read:

18 Subd. 10. [NOTICE TO THE PUBLIC.] Upon receiving notice
19 from the governor that a judicial vacancy has occurred or will
20 occur on a specified date, the chair shall provide notice of the
21 following information:

22 (1) the office that is or will be vacant;

23 (2) that applications from qualified persons or on behalf
24 of qualified persons are being accepted by the commission;

25 (3) that application forms may be obtained from the

1 governor or the commission at a named address; and

2 (4) that application forms must be returned to the
3 commission by a named date.

4 For a district court vacancy, the notice must be made
5 available to attorney associations in the judicial district
6 where the vacancy has occurred or will occur and to at least one
7 newspaper of general circulation in each county in the
8 district. For a Workers' Compensation Court of Appeals or Tax
9 Court vacancy, the notice must be given to state attorney
10 associations and all forms of the public media.

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S.F. No. 287 - Recovery of Attorney Fees by Funeral Providers

Author: Senator Betsy L. Wergin

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: January 18, 2005

S.F. No. 287 allows a funeral provider to also recover attorney fees and other costs if the provider prevails in an action to recover fees for funeral services.

HW:cs



- 1 Senator moves to amend S.F. No. 287 as follows:
- 2 Page 1, lines 10 and 11, delete "is entitled to" and insert
- 3 "may be awarded"

Senators Wergin and Betzold introduced--
S.F. No. 287: Referred to the Committee on Judiciary.

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A bill for an act

relating to civil actions; authorizing the recovery of attorney fees by funeral providers in actions to recover costs of services; proposing coding for new law in Minnesota Statutes, chapter 149A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [149A.98] [RECOVERY OF COSTS AND ATTORNEY FEES.]

A funeral provider who prevails in an action for the recovery of fees for services provided under this chapter is entitled to costs, disbursements, and reasonable attorney fees incurred in the action, provided that the funeral provider otherwise complied with the requirements of this chapter in connection with the provision of those services.

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S.F. No. 288 - Exempting Certain Jewelry from Attachment

Author: Senator Betsy L. Wergin

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: January 18, 2005

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S.F. No. 288 exempts a debtor's wedding rings from collection processes up to a value of \$1,225.

HW:cs



Senators Wergin and Scheid introduced--**S.F. No. 288: Referred to the Committee on Judiciary**

1 A bill for an act

2 relating to creditors remedies; exempting certain
3 jewelry from attachment, garnishment, or sale;
4 amending Minnesota Statutes 2004, section 550.37,
5 subdivision 4.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7 Section 1. Minnesota Statutes 2004, section 550.37,
8 subdivision 4, is amended to read:

9 Subd. 4. [PERSONAL GOODS.] (a) All wearing apparel, one
10 watch, utensils, and foodstuffs of the debtor and the debtor's
11 family; and

12 (b) household furniture, household appliances, phonographs,
13 radio and television receivers of the debtor and the debtor's
14 family, not exceeding \$4,500 in value; and

15 (c) the debtor's aggregate interest in wedding rings, not
16 to exceed \$1,225 in value, held primarily for the personal or
17 family use of the debtor or a dependent of the debtor.

18 The exemption provided by this subdivision may not be
19 waived except with regard to purchase money security interests.
20 Except for a pawnbroker's possessory lien, a nonpurchase money
21 security interest in the property exempt under this subdivision
22 is void.

23 If a debtor has property of the type which would qualify
24 for the exemption under clause (b) of this subdivision, of a
25 value in excess of \$4,500 an itemized list of the exempt

1 property, together with the value of each item listed, shall be
2 attached to the security agreement at the time a security
3 interest is taken, and a creditor may take a nonpurchase money
4 security interest in the excess over \$4,500 by requiring the
5 debtor to select the exemption in writing at the time the loan
6 is made.

7 Sec. 2. [EFFECTIVE DATE.]

8 Section 1 is effective the day following final enactment.

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S.F. No. 327 - Human Rights Act

Author: Senator John Marty

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: January 14, 2005

Section 1 amends the provision of the Human Rights Act dealing with the processing of charges by the Commissioner of Human Rights to provide that the requirement that the Commissioner make a probable cause determination within 12 months after a charge is filed is suspended during the time that another enforcement agency is investigating the case under a work sharing agreement.

Language is also added authorizing the chief administrative law judge to include damages, attorney fees, and costs in policies related to sanctions for intentional and frivolous delay. The Department, as well as the charging party or respondent, would have standing to petition the administrative law judge for sanctions.

Section 2 amends the statute dealing with access to closed case files to authorize the Commissioner to disclose data about a closed file to another governmental entity to assist in processing a complaint or eliminate duplication of efforts.

Section 3 repeals the statute allowing a charging party to request a hearing 180 days after a charge.

HW:cs



Senators Marty, Betzold and Skoglund introduced--
S.F. No. 327: Referred to the Committee on Judiciary.

1 A bill for an act
2 relating to human rights; creating a tolling provision
3 for the 12-month determination requirement; allowing
4 the Department of Human Rights to seek sanctions;
5 repealing the 180-day hearing provision; amending
6 Minnesota Statutes 2004, sections 363A.28, subdivision
7 6; 363A.35, subdivision 3; repealing Minnesota
8 Statutes 2004, section 363A.29, subdivision 2.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

10 Section 1. Minnesota Statutes 2004, section 363A.28,
11 subdivision 6, is amended to read:

12 Subd. 6. [CHARGE PROCESSING.] ~~{1}~~ (a) Consistent with
13 ~~clause-{7}~~ paragraph (g), the commissioner shall promptly
14 inquire into the truth of the allegations of the charge. The
15 commissioner shall make an immediate inquiry when a charge
16 alleges actual or threatened physical violence. The
17 commissioner shall also make an immediate inquiry when it
18 appears that a charge is frivolous or without merit and shall
19 dismiss those charges.

20 The commissioner shall give priority to investigating and
21 processing those charges, in the order below, which the
22 commissioner determines have the following characteristics:

23 ~~{a}~~ (1) there is evidence of irreparable harm if immediate
24 action is not taken;

25 ~~{b}~~ (2) there is evidence that the respondent has
26 intentionally engaged in a reprisal;

27 ~~{c}~~ (3) a significant number of recent charges have been

1 filed against the respondent;

2 (d) (4) the respondent is a government entity;

3 (e) (5) there is potential for broadly promoting the
4 policies of this chapter; or

5 (f) (6) the charge is supported by substantial and credible
6 documentation, witnesses, or other evidence.

7 The commissioner shall inform charging parties of these
8 priorities and shall tell each party if their charge is a
9 priority case or not.

10 On other charges the commissioner shall make a
11 determination within 12 months after the charge was filed as to
12 whether or not there is probable cause to credit the allegation
13 of unfair discriminatory practices~~7~~-and. The amount of time
14 during which another enforcement agency is investigating a case
15 under a work-sharing agreement is not counted in computing the
16 12-month period, provided that the commissioner makes a
17 determination within 24 months after the charge is filed.

18 (2) (b) If the commissioner determines after investigation
19 that no probable cause exists to credit the allegations of the
20 unfair discriminatory practice, the commissioner shall, within
21 ten days of the determination, serve upon the charging party and
22 respondent written notice of the determination. Within ten days
23 after receipt of notice, the charging party may request in
24 writing, on forms prepared by the department, that the
25 commissioner reconsider the determination. The request shall
26 contain a brief statement of the reasons for and new evidence in
27 support of the request for reconsideration. At the time of
28 submission of the request to the commissioner, the charging
29 party shall deliver or mail to the respondent a copy of the
30 request for reconsideration. The commissioner shall reaffirm,
31 reverse, or vacate and remand for further consideration the
32 determination of no probable cause within 20 days after receipt
33 of the request for reconsideration, and shall within ten days
34 notify in writing the charging party and respondent of the
35 decision to reaffirm, reverse, or vacate and remand for further
36 consideration.

1 A decision by the commissioner that no probable cause
2 exists to credit the allegations of an unfair discriminatory
3 practice shall not be appealed to the Court of Appeals pursuant
4 to section 363A.36 or sections 14.63 to 14.68.

5 ~~(3)~~ (c) If the commissioner determines after investigation
6 that probable cause exists to credit the allegations of unfair
7 discriminatory practices, the commissioner shall serve on the
8 respondent and the respondent's attorney if the respondent is
9 represented by counsel, by first class mail, a notice setting
10 forth a short plain written statement of the alleged facts which
11 support the finding of probable cause and an enumeration of the
12 provisions of law allegedly violated. If the commissioner
13 determines that attempts to eliminate the alleged unfair
14 practices through conciliation pursuant to subdivision 8 have
15 been or would be unsuccessful or unproductive, the commissioner
16 shall issue a complaint and serve on the respondent, by
17 registered or certified mail, a written notice of hearing
18 together with a copy of the complaint, requiring the respondent
19 to answer the allegations of the complaint at a hearing before
20 an administrative law judge at a time and place specified in the
21 notice, not less than ten days after service of said complaint.
22 A copy of the notice shall be furnished to the charging party
23 and the attorney general.

24 ~~(4)~~ (d) If, at any time after the filing of a charge, the
25 commissioner has reason to believe that a respondent has engaged
26 in any unfair discriminatory practice, the commissioner may file
27 a petition in the district court in a county in which the
28 subject of the complaint occurs, or in a county in which a
29 respondent resides or transacts business, seeking appropriate
30 temporary relief against the respondent, pending final
31 determination of proceedings under this chapter, including an
32 order or decree restraining the respondent from doing or
33 procuring an act tending to render ineffectual an order the
34 commissioner may enter with respect to the complaint. The court
35 shall have power to grant temporary relief or a restraining
36 order as it deems just and proper, but no relief or order

1 extending beyond ten days shall be granted except by consent of
2 the respondent or after hearing upon notice to the respondent
3 and a finding by the court that there is reasonable cause to
4 believe that the respondent has engaged in a discriminatory
5 practice. Except as modified by subdivisions 1 to 9 and section
6 363A.06, subdivision 4, the Minnesota Rules of Civil Procedure
7 shall apply to an application, and the district court shall have
8 authority to grant or deny the relief sought on conditions as it
9 deems just and equitable. All hearings under subdivisions 1 to
10 9 and section 363A.06, subdivision 4, shall be given precedence
11 as nearly as practicable over all other pending civil actions.

12 †5) (e) If a lessor, after engaging in a discriminatory
13 practice defined in section 363A.09, subdivision 1, clause (a),
14 leases or rents a dwelling unit to a person who has no knowledge
15 of the practice or of the existence of a charge with respect to
16 the practice, the lessor shall be liable for actual damages
17 sustained by a person by reason of a final order as provided in
18 subdivisions 1 to 9 and section 363A.06, subdivision 4,
19 requiring the person to be evicted from the dwelling unit.

20 †6) (f) In any complaint issued under subdivisions 1 to 9
21 and section 363A.06, subdivision 4, the commissioner may seek
22 relief for a class of individuals affected by an unfair
23 discriminatory practice occurring on or after a date one year
24 prior to the filing of the charge from which the complaint
25 originates.

26 †7) (g) The commissioner may adopt policies to determine
27 which charges are processed and the order in which charges are
28 processed based on their particular social or legal
29 significance, administrative convenience, difficulty of
30 resolution, or other standard consistent with the provisions of
31 this chapter.

32 †8) (h) The chief administrative law judge shall adopt
33 policies to provide sanctions which may include, but are not
34 limited to, damages, attorney fees, and costs for intentional
35 and frivolous delay caused by any charging party or respondent
36 in an investigation, hearing, or any other aspect of proceedings

1 before the department under this chapter. The department, as
2 well as any charging party or respondent, may petition the chief
3 administrative law judge for an order imposing sanctions.

4 Sec. 2. Minnesota Statutes 2004, section 363A.35,
5 subdivision 3, is amended to read:

6 Subd. 3. [ACCESS TO CLOSED FILES.] (a) Except as otherwise
7 provided in this subdivision, human rights investigative data
8 contained in a closed case file are private data on individuals
9 or nonpublic data. The name and address of the charging party
10 and respondent, factual basis of the allegations, the statute
11 under which the action is brought, the part of the summary of
12 the investigation that does not contain identifying data on a
13 person other than the complainant or respondent, and the
14 commissioner's memorandum determining whether probable cause has
15 been shown are public data. After a file has been closed, the
16 commissioner may disclose data about a closed case file to
17 another governmental entity to assist that entity in processing
18 a complaint or to eliminate duplication of efforts in the
19 investigation of the same or similar facts as alleged in the
20 charge. To the extent that data are disclosed to other
21 governmental entities, it must be stipulated that section 13.03,
22 subdivision 4, applies to the classification of the data. The
23 commissioner must notify the subject of the data when a
24 disclosure is made under this subdivision.

25 (b) The commissioner may make human rights investigative
26 data contained in a closed case file inaccessible to the
27 charging party or the respondent in order to protect medical or
28 other security interests of the parties or third persons.

29 Sec. 3. [REPEALER.]

30 Minnesota Statutes 2004, section 363A.29, subdivision 2, is
31 repealed.

APPENDIX
Repealed Minnesota Statutes for 05-0348

363A.29 HEARINGS.

Subd. 2. Hearings 180 days after charge. At any time after 180 days from the filing of a charge, if there has been neither a finding of probable cause nor of no probable cause, the charging party may file a request with the commissioner to appear at a hearing on the party's own behalf or through a private attorney. The amount of time during which a case is involved in significant settlement negotiations, is being investigated by another enforcement agency under a work sharing agreement, or has been referred to mediation or to a local human rights commission for no fault grievance processing is not counted in computing the 180 days. Tolling of the time during settlement negotiations requires written approval of the charging party or the party's attorney. The right of a charging party to file a request for hearing does not apply in cases that have been certified as complex by the commissioner within 60 days of the filing of the charge. A case may not be certified as complex unless it involves multiple parties or issues, presents complex issues of law or fact, or presents substantially new issues of law in the discrimination area. Within five days of certifying a case as complex, the commissioner shall give notice of the certification to the charging party and the respondent. The commissioner shall make a determination of probable cause or no probable cause within one year of the filing of a case in which the time has not been counted or a case certified as complex. Upon receipt of the request, the commissioner shall review the documents and information held in the department's files concerning the charge and shall release to the charging party and respondent all documents and information that are accessible to the charging party and respondent under chapter 13. The commissioner shall forward the request for hearing to the Office of Administrative Hearings, which shall promptly set the matter for hearing. If the charging party prevails at this hearing, the administrative law judge may require the respondent to reimburse the charging party for reasonable attorney's fees.

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S.F. No. 215 - Department of Human Rights Technical Changes

Author: Senator Mee Moua
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S.F. No. 215 contains numerous changes to the law governing the Department of Human Rights.

Article 1, sections 1 and 2, make style changes in definitions.

Article 1, section 3, makes a verified complaint necessary for a person to be a charging party.

Article 1, section 4, changes the procedural position of the Commissioner as "complainant."

Article 1, section 5, extends the definition of "educational institution" to religious educational institutions.

Article 1, section 6, enlarges the definition of "investigative data" to include various electronic data.

Article 1, section 7, adds state councils to the definition of "public service."

Article 1, section 8, clarifies powers and duties of the Commissioner relating to use of state services, the development of policies, and the provision of services and programs. Subdivision 4 allows the disclosure of settlement negotiations after final resolution of a case.

Article 1, section 9, removes obsolete language.

Article 1, section 10, changes a reference to a definition of “direct threat.”

Article 1, section 11, makes it an unfair practice to make an application form for admission that elicits improper information.

Article 1, section 12, revises language relating to various classes of business discrimination and moves it to the beginning of the section.

Article 1, section 13, adds a reference to the general definition of “public accommodation” in the prohibition of discrimination against the disabled.

Article 1, sections 14, 15, and 16, make grammatical changes.

Article 1, section 17, repeats the word “verified” in the procedure for bringing actions.

Article 1, section 18, substitutes “memorandum” for “short, plain written statement” in the requirements for service of a Commissioner’s complaint.

Article 1, sections 19 and 20, clarify references.

Article 2 removes an old schedule, a tolling provision, and two definitions.

Article 3, section 1, updates and reworks the state’s policy statement about discrimination.

Article 3, section 2, adds material to the definition of “civil right.”

Article 3, section 3, defines “direct threat.”

Article 3, section 4, adds redesign of facilities as a remedy for access for disabled persons.

Article 3, section 5, adds sexual harassment to the definition of “sex.”

Article 3, section 6, adds a definition of “verified charge.”

Article 3, sections 7 to 11, add employment by a human rights commission to the references to protected characteristics.

Article 3, section 12, adds religion and familial status to prohibited discrimination in property transactions.

Article 3, section 13, defines “reprisals” and extends the list of protected characteristics.

HW:cs

- 1 Senator moves to amend S.F. No. 215 as follows:
- 2 Page 2, line 27, strike "written documents" and insert
- 3 "government data as defined in section 13.02, subdivision 7" and
- 4 delete "audio and video"
- 5 Page 2, line 28, delete the new language
- 6 Page 2, line 29, delete the new language and strike
- 7 "gathered" and insert "collected"

- 1 Senator moves to amend S.F. No. 215 as follows:
- 2 Page 19, line 8, delete everything after the period
- 3 Page 19, delete lines 9 to 14

Senator Moua introduced--

S.F. No. 215: Referred to the Committee on Health and Family Security.

A bill for an act

relating to human rights; making agency technical changes; amending Minnesota Statutes 2004, sections 363A.02, subdivisions 1, 2; 363A.03, subdivisions 1, 2, 5, 8, 14, 21, 31, 35, 42, by adding subdivisions; 363A.04; 363A.06; 363A.08, subdivisions 1, 2, 3, 4, 6; 363A.09, subdivision 4; 363A.11, subdivision 4; 363A.12, subdivision 1; 363A.13, subdivision 4; 363A.15; 363A.17; 363A.19; 363A.20, subdivision 4; 363A.21, subdivisions 1, 2; 363A.28, subdivisions 1, 6, 7; 363A.29, subdivision 2; 363A.40, subdivision 1; repealing Minnesota Statutes 2004, section 363A.03, subdivisions 3, 29.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

CLARIFYING AMENDMENTS

Section 1. Minnesota Statutes 2004, section 363A.03, subdivision 1, is amended to read:

Subdivision 1. [~~TERMS~~ SCOPE.] For the purposes of this chapter, the words defined in this section have the meanings ascribed to given them.

Sec. 2. Minnesota Statutes 2004, section 363A.03, subdivision 2, is amended to read:

Subd. 2. [~~AGE~~.] The prohibition against unfair employment or education practices based on age prohibits using a person's age as a basis for a decision if the person is over the age of majority 18 years, except for section 363A.13 which shall be deemed to protect any individual over the age of 25 years.

Sec. 3. Minnesota Statutes 2004, section 363A.03,

1 subdivision 5, is amended to read:

2 Subd. 5. [CHARGING PARTY.] "Charging party" means a person
3 filing a verified charge with the commissioner or the
4 commissioner's designated agent pursuant to section 363A.28,
5 subdivision 1.

6 Sec. 4. Minnesota Statutes 2004, section 363A.03,
7 subdivision 8, is amended to read:

8 Subd. 8. [COMPLAINANT.] "Complainant" means the
9 commissioner of human rights after issuing a finding of probable
10 cause is made by the commissioner and the commissioner issues a
11 complaint pursuant to sections 363A.06, subdivision 3, paragraph
12 (8), and 363A.28, subdivisions 1 to 9.

13 Sec. 5. Minnesota Statutes 2004, section 363A.03,
14 subdivision 14, is amended to read:

15 Subd. 14. [EDUCATIONAL INSTITUTION.] "Educational
16 institution" means a public or private institution and includes
17 an academy, college, elementary or secondary school, extension
18 course, kindergarten, nursery, school system and a business,
19 nursing, professional, secretarial, technical, vocational
20 school; and includes an agent of an educational
21 institution. "Educational institution" also includes "religious
22 or denominational educational institution" as defined in section
23 363A.03, subdivision 40.

24 Sec. 6. Minnesota Statutes 2004, section 363A.03,
25 subdivision 21, is amended to read:

26 Subd. 21. [HUMAN RIGHTS INVESTIGATIVE DATA.] "Human rights
27 investigative data" means written documents, audio and video
28 tapes, or other electronically and technologically created or
29 transmitted data, issued or gathered by the department for the
30 purpose of investigating and prosecuting alleged or suspected
31 discrimination.

32 Sec. 7. Minnesota Statutes 2004, section 363A.03,
33 subdivision 35, is amended to read:

34 Subd. 35. [PUBLIC SERVICE.] "Public service" means any
35 public facility, department, agency, council, board or
36 commission, owned, operated or managed by or on behalf of the

1 state of Minnesota, or any subdivision thereof, including any
2 county, city, town, township, or independent district in the
3 state.

4 Sec. 8. Minnesota Statutes 2004, section 363A.06, is
5 amended to read:

6 363A.06 [POWERS AND DUTIES OF COMMISSIONER.]

7 Subdivision 1. [FORMULATION OF POLICIES.] The commissioner
8 shall formulate policies to effectuate the purposes of this
9 chapter and shall:

10 (1) exercise leadership under the direction of the governor
11 in the development of human rights policies, procedures, and
12 programs, and make recommendations to the governor and the
13 legislature for their consideration and implementation;

14 (2) establish and maintain a principal office in St. Paul,
15 and any other necessary branch offices at any location within
16 the state;

17 (3) meet and function at any place within the state;

18 (4) employ attorneys, clerks, and other employees and
19 agents as the commissioner may deem necessary and prescribe
20 their duties;

21 (5) to the extent permitted by federal and state law and
22 regulation, utilize the records and services of the-Department
23 of-Employment-and-Economic-Development-of-the-state all state
24 governmental departments and agencies when necessary to
25 effectuate the purposes of this chapter;

26 (6) ~~obtain-upon-request-and-utilize-the-services-of-all~~
27 ~~state-governmental-departments-and-agencies;~~

28 (7) adopt suitable rules for effectuating the purposes of
29 this chapter;

30 (8) (7) issue complaints, receive and investigate charges
31 alleging unfair discriminatory practices, and determine whether
32 or not probable cause exists for hearing;

33 (9) (8) subpoena witnesses, administer oaths, take
34 testimony, and require the production for examination of any
35 books or papers relative to any matter under investigation or in
36 question as the commissioner deems appropriate to carry out the

1 purposes of this chapter;

2 ~~(10)~~ (9) attempt, by means of education, conference,
3 conciliation, and persuasion to eliminate unfair discriminatory
4 practices as being contrary to the public policy of the state;

5 ~~(11)~~ (10) develop and conduct programs of formal and
6 informal education designed to eliminate discrimination and
7 intergroup conflict by use of educational techniques and
8 programs the commissioner deems necessary;

9 ~~(12)~~ (11) make a written report of the activities of the
10 commissioner to the governor each year;

11 ~~(13)~~ (12) accept gifts, bequests, grants or other payments
12 public and private to help finance the activities of the
13 department;

14 ~~(14)~~ (13) create such local and statewide advisory
15 committees as will in the commissioner's judgment aid in
16 effectuating the purposes of the Department of Human Rights;

17 (14) provide staff services to such advisory committees as
18 may be created in aid of the functions of the Department of
19 Human Rights;

20 (15) develop such programs as will aid in determining the
21 compliance throughout the state with the provisions of this
22 chapter, and in the furtherance of such duties, conduct research
23 and study discriminatory practices based upon race, color,
24 creed, religion, national origin, sex, age, disability, marital
25 status, status with regard to public assistance, familial
26 status, sexual orientation, membership or activity in a local
27 human rights commission, or other factors and. Develop accurate
28 data on the nature and extent of discrimination and other
29 matters as they may affect housing, employment, public
30 accommodations, ~~schools, and other areas of public life~~ public
31 services, education, credit, and business;

32 (16) develop and disseminate technical assistance to
33 persons subject to the provisions of this chapter, and to
34 agencies and officers of governmental and private agencies;

35 ~~(17)-provide-staff-services-to-such-advisory-committees-as~~
36 ~~may-be-created-in-aid-of-the-functions-of-the-Department-of~~

1 Human-Rights~~7~~

2 ~~(18)~~ (17) make grants in aid to the extent that
3 appropriations are made available for ~~that~~ the purpose in-aid of
4 carrying out the duties and responsibilities of this chapter;
5 and

6 ~~(19)~~ (18) cooperate and consult with the commissioner of
7 labor and industry regarding the investigation of violations of,
8 and resolution of complaints regarding section 363A.08,
9 subdivision 7.

10 In performing these duties, the commissioner shall give
11 priority to those duties in clauses (7), (8), and (9)~~7-and-(10)~~
12 and to the duties in section 363A.36.

13 Subd. 2. [SERVICE, ENFORCEMENT, AND EFFECT OF SUBPOENA.]

14 (a) Disobedience of a subpoena issued by the commissioner
15 pursuant to subdivision 1, clause (8), shall be punishable in
16 like manner as a contempt of the district court in proceedings
17 instituted upon application of the commissioner made to the
18 district court of the county where the alleged unfair
19 discriminatory practice in connection with a charge made by a
20 charging party or a complaint filed by the commissioner has
21 occurred or where the respondent resides or has a principal
22 place of business.

23 (b) It is not a violation of rights conferred by chapter 13
24 or any other statute related to the confidentiality of
25 government data for a state agency, statewide system, or
26 political subdivision, as defined in section 13.02, subdivision
27 11, to provide data or information under a subpoena issued by
28 the commissioner under this section.

29 (c) A subpoena issued under subdivision 1, clause (8), must
30 be served personally or by mailing a copy of the subpoena, by
31 first class mail, postage prepaid, to the person to be served.
32 The subpoena must include two copies of a notice and
33 acknowledgment of service on a form to be provided by the
34 commissioner, and a return envelope, postage prepaid, addressed
35 to the sender. If acknowledgment of service is not received by
36 the commissioner within 20 days, service is not effective.

1 Unless good cause is shown for not doing so, a court or
2 administrative law judge shall order the payment of the costs of
3 personal service by the person served if the person does not
4 complete and return the notice and acknowledgment of receipt of
5 the subpoena within the time allowed.

6 Subd. 3. [MISSION; EFFICIENCY.] It is part of the
7 department's mission that within the department's resources the
8 commissioner shall endeavor to:

9 (1) prevent the waste or unnecessary spending of public
10 money;

11 (2) use innovative fiscal and human resource practices to
12 manage the state's resources and operate the department as
13 efficiently as possible;

14 (3) coordinate the department's activities wherever
15 appropriate with the activities of other governmental agencies;

16 (4) use technology where appropriate to increase agency
17 productivity, improve customer service, increase public access
18 to information about government, and increase public
19 participation in the business of government;

20 (5) utilize constructive and cooperative labor-management
21 practices ~~to-the-extent-otherwise~~ as required by chapters 43A
22 and 179A;

23 (6) report to the legislature on the performance of agency
24 operations and the accomplishment of agency goals in the
25 agency's biennial budget according to section 16A.10,
26 subdivision 1; and

27 (7) recommend to the legislature appropriate changes in law
28 necessary to carry out the mission and improve the performance
29 of the department.

30 Subd. 4. [PUBLICATION OF CASE ACCOUNT.] The commissioner
31 may publish an account of a case in which the complaint has been
32 dismissed or the terms of settlement of a case that has been
33 voluntarily adjusted. Except as provided in other sections of
34 this chapter, the commissioner shall not disclose any
35 information concerning ~~efforts~~ settlement negotiations in a
36 particular case ~~to-eliminate-an-unfair-discriminatory-practice~~

1 ~~through-education,-conference,-conciliation-and-persuasion~~ prior
2 to final resolution.

3 Sec. 9. Minnesota Statutes 2004, section 363A.08,
4 subdivision 6, is amended to read:

5 Subd. 6. [REASONABLE ACCOMMODATION.] Except when based on
6 a bona fide occupational qualification, it is an unfair
7 employment practice for an employer ~~with-a-number-of~~ who employs
8 equal to or greater than 15 part-time or full-time employees for
9 each working day in each of 20 or more calendar weeks in the
10 current or preceding calendar year ~~equal-to-or-greater-than-25~~
11 ~~effective-July-17-1992,-and-equal-to-or-greater-than-15~~
12 ~~effective-July-17-1994~~, an employment agency, or a labor
13 organization, not to make reasonable accommodation to the known
14 disability of a qualified disabled person or job applicant
15 unless the employer, agency, or organization can demonstrate
16 that the accommodation would impose an undue hardship on the
17 business, agency, or organization. "Reasonable accommodation"
18 means steps which must be taken to accommodate the known
19 physical or mental limitations of a qualified disabled person.
20 "Reasonable accommodation" may include but is not limited to,
21 nor does it necessarily require: (a) making facilities readily
22 accessible to and usable by disabled persons; and (b) job
23 restructuring, modified work schedules, reassignment to a vacant
24 position, acquisition or modification of equipment or devices,
25 and the provision of aides on a temporary or periodic basis.

26 In determining whether an accommodation would impose an
27 undue hardship on the operation of a business or organization,
28 factors to be considered include:

29 (a) the overall size of the business or organization with
30 respect to number of employees or members and the number and
31 type of facilities;

32 (b) the type of the operation, including the composition
33 and structure of the work force, and the number of employees at
34 the location where the employment would occur;

35 (c) the nature and cost of the needed accommodation;

36 (d) the reasonable ability to finance the accommodation at

1 each site of business; and

2 (e) documented good faith efforts to explore less
3 restrictive or less expensive alternatives, including
4 consultation with the disabled person or with knowledgeable
5 disabled persons or organizations.

6 A prospective employer need not pay for an accommodation
7 for a job applicant if it is available from an alternative
8 source without cost to the employer or applicant.

9 Sec. 10. Minnesota Statutes 2004, section 363A.11,
10 subdivision 4, is amended to read:

11 Subd. 4. [DIRECT THREAT TO HEALTH AND SAFETY.] Nothing in
12 this chapter requires an entity to permit an individual to
13 participate in and benefit from the goods, services, facilities,
14 privileges, advantages, and accommodations of the entity if the
15 individual poses a direct threat, as defined in section 363A.03,
16 subdivision 11a, to the health or safety of others. "Direct
17 threat"~~means a significant risk to the health or safety of~~
18 ~~others that cannot be eliminated by a modification of policies,~~
19 ~~practices, or procedures or by the provision of auxiliary aids~~
20 ~~or services.~~

21 Sec. 11. Minnesota Statutes 2004, section 363A.13,
22 subdivision 4, is amended to read:

23 Subd. 4. [PURPOSE FOR INFORMATION AND RECORD.] It is an
24 unfair discriminatory practice to make or use a written or oral
25 inquiry or form of application for admission that elicits or
26 attempts to elicit information, or to make or keep a record
27 concerning the race, color, national origin, sex, age, or
28 marital status of a person seeking admission, unless the
29 information is collected for purposes of evaluating the
30 effectiveness of recruitment, admissions, and other educational
31 policies, and is maintained separately from the application.

32 Sec. 12. Minnesota Statutes 2004, section 363A.17, is
33 amended to read:

34 363A.17 [BUSINESS DISCRIMINATION.]

35 It is an unfair discriminatory practice for a person
36 engaged in a trade or business or in the provision of a service:

1 (a) to intentionally refuse to do business with, to refuse
 2 to contract with, to refuse to provide a service to or to
 3 discriminate in the basic terms, conditions, or performance of
 4 the contract because of a person's race, national origin, color,
 5 sex, sexual orientation, or disability, unless the alleged
 6 refusal or discrimination is because of a legitimate business
 7 purpose;

8 ~~(a) (b)~~ to refuse to do business with or provide a service
 9 to a woman based on her use of her current or former surname; or

10 ~~(b) (c)~~ to impose, as a condition of doing business with or
 11 providing a service to a woman, that a woman use her current
 12 surname rather than a former surname; ~~or~~

13 ~~(c) to intentionally refuse to do business with, to refuse~~
 14 ~~to contract with, or to discriminate in the basic terms,~~
 15 ~~conditions, or performance of the contract because of a person's~~
 16 ~~race, national origin, color, sex, sexual orientation, or~~
 17 ~~disability, unless the alleged refusal or discrimination is~~
 18 ~~because of a legitimate business purpose.~~

19 Nothing in this section shall prohibit positive action
 20 plans.

21 Sec. 13. Minnesota Statutes 2004, section 363A.19, is
 22 amended to read:

23 363A.19 [DISCRIMINATION AGAINST BLIND, DEAF, OR OTHER
 24 PERSONS WITH PHYSICAL OR SENSORY DISABILITIES PROHIBITED.]

25 (a) It is an unfair discriminatory practice for an owner,
 26 operator, or manager of a hotel, restaurant, public conveyance,
 27 or other place of public place accommodation as defined in
 28 section 363A.03, subdivision 34, to prohibit a blind or deaf
 29 person or a person with a physical or sensory disability from
 30 taking a service animal into the public place or conveyance if
 31 the service animal can be properly identified as being from a
 32 recognized program which trains service animals to aid blind or
 33 deaf persons or persons with physical or sensory disabilities,
 34 and if the animal is properly harnessed or leashed so that the
 35 blind or deaf person or a person with a physical or sensory
 36 disability may maintain control of the animal.

1 (b) No person shall require a blind, physically
2 handicapped, or deaf person to make an extra payment or pay an
3 additional charge when taking a service animal into any of the
4 public places referred to in paragraph (a).

5 Sec. 14. Minnesota Statutes 2004, section 363A.20,
6 subdivision 4, is amended to read:

7 Subd. 4. [EMPLOYMENT SELECTION.] The provisions of section
8 363A.08 do not apply to the employment of one person in place of
9 another which, standing by itself, shall not be considered
10 evidence of an unfair discriminatory practice.

11 Sec. 15. Minnesota Statutes 2004, section 363A.21,
12 subdivision 1, is amended to read:

13 Subdivision 1. [HOUSING.] The provisions of section
14 363A.09 shall not apply to:

15 (a) rooms in a temporary or permanent residence home run by
16 a nonprofit organization, if the discrimination is by on the
17 basis of sex;

18 (b) the rental by a resident owner or occupier of a
19 one-family accommodation of a room or rooms in the accommodation
20 to another person or persons if the discrimination is by on the
21 basis of sex, marital status, status with regard to public
22 assistance, sexual orientation, or disability. Except as
23 provided elsewhere in this chapter or other state or federal
24 law, no person or group of persons selling, renting, or leasing
25 property is required to modify the property in any way, or
26 exercise a higher degree of care for a person having a
27 disability than for a person who does not have a disability; nor
28 shall this chapter be construed to relieve any person or persons
29 of any obligations generally imposed on all persons regardless
30 of any disability in a written lease, rental agreement, or
31 contract of purchase or sale, or to forbid distinctions based on
32 the inability to fulfill the terms and conditions, including
33 financial obligations of the lease, agreement, or contract; or

34 (c) the rental by a resident owner of a unit in a dwelling
35 containing not more than two units, if the discrimination is on
36 the basis of sexual orientation.

1 Sec. 16. Minnesota Statutes 2004, section 363A.21,
2 subdivision 2, is amended to read:

3 Subd. 2. [FAMILIAL STATUS.] (a) The provisions of section
4 363A.09 prohibiting discrimination because on the basis of
5 familial status shall not be construed to defeat the
6 applicability of any local, state, or federal restrictions
7 regarding the maximum number of occupants permitted to occupy a
8 dwelling unit and shall not apply to any owner occupied building
9 containing four or fewer dwelling units or housing for elderly
10 persons.

11 (b) "Housing for elderly persons" means housing:

12 (1) provided under any state or federal program that the
13 commissioner determines is specifically designed and operated to
14 assist elderly persons, as defined in the state or federal
15 program;

16 (2) intended for, and solely occupied by, persons 62 years
17 of age or older; or

18 (3) intended and operated for occupancy by at least one
19 person 55 years of age or older per unit, provided that at least
20 80 percent of the units are occupied by at least one person 55
21 years of age or older per unit, and there is publication of, and
22 adherence to, policies and procedures that demonstrate an intent
23 by the owner or manager to provide housing for persons 55 years
24 of age or older.

25 (c) Housing does not fail to meet the requirements for
26 housing for elderly persons by reason of persons residing in the
27 housing as of August 1, 1989, who do not meet the age
28 requirements of paragraph (b), clauses (2) and (3), if new
29 occupants of the housing meet the age requirements of paragraph
30 (b), clause (2) or (3). In addition, housing does not fail to
31 meet the requirements by reason of unoccupied units if
32 unoccupied units are reserved for occupancy by persons who meet
33 the age requirements of paragraph (b), clause (2) or (3).

34 Sec. 17. Minnesota Statutes 2004, section 363A.28,
35 subdivision 1, is amended to read:

36 Subdivision 1. [ACTIONS.] Any person aggrieved by a

1 violation of this chapter may bring a civil action as provided
2 in section 363A.33, subdivision 1, or may file a verified charge
3 with the commissioner or the commissioner's designated agent. A
4 verified charge filed with the commissioner must be in writing
5 on a form provided by the commissioner and signed by the
6 charging party. The charge must state the name of the person
7 alleged to have committed an unfair discriminatory practice and
8 set out a summary of the details of the practice complained of.
9 The commissioner may require a charging party to provide the
10 address of the person alleged to have committed the unfair
11 discriminatory practice, names of witnesses, documents, and any
12 other information necessary to process the charge. The
13 commissioner may dismiss a charge when the charging party fails
14 to provide required information. The commissioner within ten
15 days of the filing shall serve a copy of the charge and a form
16 for use in responding to the charge upon the respondent
17 personally or by mail. The respondent shall file with the
18 department a written response setting out a summary of the
19 details of the respondent's position relative to the charge
20 within 20 days of receipt of the charge. If the respondent
21 fails to respond with a written summary of the details of the
22 respondent's position within 30 days after service of the
23 charge, and service was consistent with Rule 4 of the Rules of
24 Civil Procedure, the commissioner, on behalf of the complaining
25 party, may bring an action for default in district court
26 pursuant to Rule 55.01 of the Rules of Civil Procedure.

27 Sec. 18. Minnesota Statutes 2004, section 363A.28,
28 subdivision 6, is amended to read:

29 Subd. 6. [CHARGE PROCESSING.] (1) Consistent with clause
30 (7), the commissioner shall promptly inquire into the truth of
31 the allegations of the charge. The commissioner shall make an
32 immediate inquiry when a charge alleges actual or threatened
33 physical violence. The commissioner shall also make an
34 immediate inquiry when it appears that a charge is frivolous or
35 without merit and shall dismiss those charges.

36 The commissioner shall give priority to investigating and

1 processing those charges, in the order below, which the
2 commissioner determines have the following characteristics:

3 (a) there is evidence of irreparable harm if immediate
4 action is not taken;

5 (b) there is evidence that the respondent has intentionally
6 engaged in a reprisal;

7 (c) a significant number of recent charges have been filed
8 against the respondent;

9 (d) the respondent is a government entity;

10 (e) there is potential for broadly promoting the policies
11 of this chapter; or

12 (f) the charge is supported by substantial and credible
13 documentation, witnesses, or other evidence.

14 The commissioner shall inform charging parties of these
15 priorities and shall tell each party if their charge is a
16 priority case or not.

17 On other charges the commissioner shall make a
18 determination within 12 months after the charge was filed as to
19 whether or not there is probable cause to credit the allegation
20 of unfair discriminatory practices~~7~~and.

21 (2) If the commissioner determines after investigation that
22 no probable cause exists to credit the allegations of the unfair
23 discriminatory practice, the commissioner shall, within ten days
24 of the determination, serve upon the charging party and
25 respondent written notice of the determination. Within ten days
26 after receipt of notice, the charging party may request in
27 writing, on forms prepared by the department, that the
28 commissioner reconsider the determination. The request shall
29 contain a brief statement of the reasons for and new evidence in
30 support of the request for reconsideration. At the time of
31 submission of the request to the commissioner, the charging
32 party shall deliver or mail to the respondent a copy of the
33 request for reconsideration. The commissioner shall reaffirm,
34 reverse, or vacate and remand for further consideration the
35 determination of no probable cause within 20 days after receipt
36 of the request for reconsideration, and shall within ten days

1 notify in writing the charging party and respondent of the
2 decision to reaffirm, reverse, or vacate and remand for further
3 consideration.

4 A decision by the commissioner that no probable cause
5 exists to credit the allegations of an unfair discriminatory
6 practice shall not be appealed to the Court of Appeals pursuant
7 to section 363A.36 or sections 14.63 to 14.68.

8 (3) If the commissioner determines after investigation that
9 probable cause exists to credit the allegations of unfair
10 discriminatory practices, the commissioner shall serve on the
11 respondent and the respondent's attorney if the respondent is
12 represented by counsel, by first class mail, a notice setting
13 forth a ~~short-plain-written-statement~~ memorandum of the alleged
14 facts which support the finding of probable cause and an
15 enumeration of the provisions of law allegedly violated. If the
16 commissioner determines that attempts to eliminate the alleged
17 unfair practices through conciliation pursuant to subdivision 8
18 have been or would be unsuccessful or unproductive, the
19 commissioner shall issue a complaint and serve on the
20 respondent, by registered or certified mail, a written notice of
21 hearing together with a copy of the complaint, requiring the
22 respondent to answer the allegations of the complaint at a
23 hearing before an administrative law judge at a time and place
24 specified in the notice, not less than ten days after service of
25 said complaint. A copy of the notice shall be furnished to the
26 charging party and the attorney general.

27 (4) If, at any time after the filing of a charge, the
28 commissioner has reason to believe that a respondent has engaged
29 in any unfair discriminatory practice, the commissioner may file
30 a petition in the district court in a county in which the
31 subject of the complaint occurs, or in a county in which a
32 respondent resides or transacts business, seeking appropriate
33 temporary relief against the respondent, pending final
34 determination of proceedings under this chapter, including an
35 order or decree restraining the respondent from doing or
36 procuring an act tending to render ineffectual an order the

1 commissioner may enter with respect to the complaint. The court
2 shall have power to grant temporary relief or a restraining
3 order as it deems just and proper, but no relief or order
4 extending beyond ten days shall be granted except by consent of
5 the respondent or after hearing upon notice to the respondent
6 and a finding by the court that there is reasonable cause to
7 believe that the respondent has engaged in a discriminatory
8 practice. Except as modified by subdivisions 1 to 9 and section
9 363A.06, subdivision 4, the Minnesota Rules of Civil Procedure
10 shall apply to an application, and the district court shall have
11 authority to grant or deny the relief sought on conditions as it
12 deems just and equitable. All hearings under subdivisions 1 to
13 9 and section 363A.06, subdivision 4, shall be given precedence
14 as nearly as practicable over all other pending civil actions.

15 (5) If a lessor, after engaging in a discriminatory
16 practice defined in section 363A.09, subdivision 1, clause (a),
17 leases or rents a dwelling unit to a person who has no knowledge
18 of the practice or of the existence of a charge with respect to
19 the practice, the lessor shall be liable for actual damages
20 sustained by a person by reason of a final order as provided in
21 subdivisions 1 to 9 and section 363A.06, subdivision 4,
22 requiring the person to be evicted from the dwelling unit.

23 (6) In any complaint issued under subdivisions 1 to 9 and
24 section 363A.06, subdivision 4, the commissioner may seek relief
25 for a class of individuals affected by an unfair discriminatory
26 practice occurring on or after a date one year prior to the
27 filing of the charge from which the complaint originates.

28 (7) The commissioner may adopt policies to determine which
29 charges are processed and the order in which charges are
30 processed based on their particular social or legal
31 significance, administrative convenience, difficulty of
32 resolution, or other standard consistent with the provisions of
33 this chapter.

34 (8) The chief administrative law judge shall adopt policies
35 to provide sanctions for intentional and frivolous delay caused
36 by any charging party or respondent in an investigation,

1 hearing, or any other aspect of proceedings before the
2 department under this chapter.

3 Sec. 19. Minnesota Statutes 2004, section 363A.28,
4 subdivision 7, is amended to read:

5 Subd. 7. [APPLICATION OF RULES.] Rules adopted pursuant to
6 this ~~subdivision~~ chapter apply to cases pending before the
7 commissioner on the date of adoption.

8 Sec. 20. Minnesota Statutes 2004, section 363A.40,
9 subdivision 1, is amended to read:

10 Subdivision 1. [DEFINITIONS.] The definitions in this
11 subdivision apply to this section.

12 (a) "Accessible unit" means an accessible rental housing
13 unit that meets the handicapped facility requirements of the
14 State Building Code, Minnesota Rules, chapter ~~1340~~ 1341.

15 (b) "Landlord" has the meaning given it in section
16 504B.001, subdivision 7.

17 ARTICLE 2

18 OBSOLETE LANGUAGE AMENDMENTS

19 Section 1. Minnesota Statutes 2004, section 363A.12,
20 subdivision 1, is amended to read:

21 Subdivision 1. [ACCESS TO PUBLIC SERVICE.] It is an unfair
22 discriminatory practice to discriminate against any person in
23 the access to, admission to, full utilization of or benefit from
24 any public service because of race, color, creed, religion,
25 national origin, disability, sex, sexual orientation, or status
26 with regard to public assistance or to fail to ensure physical
27 and program access for disabled persons unless the public
28 service can demonstrate that providing the access would impose
29 an undue hardship on its operation. In determining whether
30 providing physical and program access would impose an undue
31 hardship, factors to be considered include:

32 (a) the type and purpose of the public service's operation;

33 (b) the nature and cost of the needed accommodation;

34 (c) documented good faith efforts to explore less
35 restrictive or less expensive alternatives; and

36 (d) the extent of consultation with knowledgeable disabled

1 persons and organizations.

2 ~~Physical-and-program-access-must-be-accomplished-within-six~~
3 ~~months-of-June-7,1983,-except-for-needed-architectural~~
4 ~~modifications,-which-must-be-made-within-two-years-of-June-7,~~
5 ~~1983-~~

6 Sec. 2. Minnesota Statutes 2004, section 363A.29,
7 subdivision 2, is amended to read:

8 Subd. 2. [HEARINGS 180 DAYS AFTER CHARGE.] At any time
9 after 180 days from the filing of a charge, if there has been
10 neither a finding of probable cause nor of no probable cause,
11 the charging party may file a request with the commissioner to
12 appear at a hearing on the party's own behalf or through a
13 private attorney. The amount of time during which a case is
14 involved in significant settlement negotiations, is being
15 investigated by another enforcement agency under a work sharing
16 agreement, or has been referred to mediation ~~or-to-a-local-human~~
17 ~~rights-commission-for-no-fault-grievance-processing~~ is not
18 counted in computing the 180 days. Tolling of the time during
19 settlement negotiations requires written approval of the
20 charging party or the party's attorney. The right of a charging
21 party to file a request for hearing does not apply in cases that
22 have been certified as complex by the commissioner within 60
23 days of the filing of the charge. A case may not be certified
24 as complex unless it involves multiple parties or issues,
25 presents complex issues of law or fact, or presents
26 substantially new issues of law in the discrimination area.
27 Within five days of certifying a case as complex, the
28 commissioner shall give notice of the certification to the
29 charging party and the respondent. The commissioner shall make
30 a determination of probable cause or no probable cause within
31 one year of the filing of a case in which the time has not been
32 counted or a case certified as complex. Upon receipt of the
33 request, the commissioner shall review the documents and
34 information held in the department's files concerning the charge
35 and shall release to the charging party and respondent all
36 documents and information that are accessible to the charging

1 party and respondent under chapter 13. The commissioner shall
2 forward the request for hearing to the Office of Administrative
3 Hearings, which shall promptly set the matter for hearing. If
4 the charging party prevails at this hearing, the administrative
5 law judge may require the respondent to reimburse the charging
6 party for reasonable attorney's fees.

7 Sec. 3. [REPEALER.]

8 Minnesota Statutes 2004, section 363A.03, subdivisions 3
9 and 29, are repealed.

10 ARTICLE 3

11 OMISSIONS AMENDMENTS

12 Section 1. Minnesota Statutes 2004, section 363A.02,
13 subdivision 1, is amended to read:

14 Subdivision 1. [FREEDOM FROM DISCRIMINATION.] (a) It is
15 the public policy of this state to secure for persons in this
16 state, freedom from discrimination:

17 (1) in employment because of race, color, creed, religion,
18 national origin, sex, marital status, disability, status with
19 regard to public assistance, sexual orientation, and age, and
20 membership or activity in a local human rights commission;

21 (2) in housing and real property because of race, color,
22 creed, religion, national origin, sex, marital status,
23 disability, status with regard to public assistance, sexual
24 orientation, and familial status;

25 (3) in public accommodations because of race, color, creed,
26 religion, national origin, sex, marital status, sexual
27 orientation, and disability;

28 (4) in public services because of race, color, creed,
29 religion, national origin, sex, marital status, disability,
30 sexual orientation, and status with regard to public assistance;
31 and

32 (5) in education because of race, color, creed, religion,
33 national origin, sex, marital status, disability, status with
34 regard to public assistance, sexual orientation, and age;

35 (6) in credit because of race, color, creed, religion,
36 national origin, sex, marital status, disability, status with

1 regard to public assistance, and sexual orientation;
 2 (7) in business because of race, color, national origin,
 3 sex, disability, and sexual orientation; and
 4 (8) due to reprisal because of race, color, creed,
 5 religion, national origin, sex, marital status, disability,
 6 status with regard to public assistance, age, sexual
 7 orientation, familial status, or membership or activity in a
 8 local human rights commission. Such discrimination threatens
 9 the rights and privileges of the inhabitants of this state and
 10 menaces the institutions and foundations of democracy. It is
 11 also the public policy of this state to protect all persons from
 12 wholly unfounded charges of discrimination. Nothing in this
 13 chapter shall be interpreted as restricting the implementation
 14 of positive action programs to combat discrimination.

15 (b) Such discrimination threatens the rights and privileges
 16 of the inhabitants of this state and menaces the institutions
 17 and foundations of democracy. It is also the public policy of
 18 this state to protect all persons from wholly unfounded charges
 19 of discrimination. Nothing in this chapter shall be interpreted
 20 as restricting the implementation of positive action programs to
 21 combat discrimination.

22 Sec. 2. Minnesota Statutes 2004, section 363A.02,
 23 subdivision 2, is amended to read:

24 Subd. 2. [CIVIL RIGHT.] The opportunity to obtain
 25 employment, housing, and other real estate, and credit; the
 26 opportunity to conduct business; and the opportunity to obtain
 27 full and equal utilization of public accommodations, public
 28 services, and educational institutions without such
 29 discrimination as is prohibited by this chapter ~~is~~ are hereby
 30 recognized as and declared to be a civil ~~right~~ rights.

31 Sec. 3. Minnesota Statutes 2004, section 363A.03, is
 32 amended by adding a subdivision to read:

33 Subd. 11a. [DIRECT THREAT.] "Direct threat" means a
 34 significant risk to the health or safety of others that cannot
 35 be eliminated by a modification of policies, practices, or
 36 procedures or by the provision of auxiliary aids or services.

1 Sec. 4. Minnesota Statutes 2004, section 363A.03,
2 subdivision 31, is amended to read:

3 Subd. 31. [PHYSICAL ACCESS.] "Physical access" means (1)
4 the absence of physical obstacles that limit a disabled person's
5 opportunity for full and equal use of or benefit from goods,
6 services, and privileges; or, when necessary, (2) the use of
7 methods to overcome the discriminatory effect of physical
8 obstacles. The methods may include redesign of equipment, or
9 facilities, assignment of aides, or use of alternate accessible
10 locations.

11 Sec. 5. Minnesota Statutes 2004, section 363A.03,
12 subdivision 42, is amended to read:

13 Subd. 42. [SEX.] "Sex" includes, but is not limited to,
14 pregnancy, childbirth, and disabilities related to pregnancy or
15 childbirth, and sexual harassment.

16 Sec. 6. Minnesota Statutes 2004, section 363A.03, is
17 amended by adding a subdivision to read:

18 Subd. 50. [VERIFIED CHARGE.] "Verified charge" means a
19 written statement signed under oath or affirmation, filed by any
20 person including the commissioner, containing a statement of
21 allegation that a person may have engaged or may be engaging in
22 an unfair discriminatory practice.

23 Sec. 7. Minnesota Statutes 2004, section 363A.04, is
24 amended to read:

25 363A.04 [CONSTRUCTION AND EXCLUSIVITY.]

26 The provisions of this chapter shall be construed liberally
27 for the accomplishment of the purposes thereof. Nothing
28 contained in this chapter shall be deemed to repeal any of the
29 provisions of the civil rights law or of any other law of this
30 state relating to discrimination because of race, creed, color,
31 religion, sex, age, disability, marital status, status with
32 regard to public assistance, national origin, sexual
33 orientation, or familial status, or membership or activity in a
34 local human rights commission; but, as to acts declared unfair
35 by sections 363A.08 to 363A.19, and 363A.28, subdivision 10, the
36 procedure herein provided shall, while pending, be exclusive.

1 Sec. 8. Minnesota Statutes 2004, section 363A.08,
2 subdivision 1, is amended to read:

3 Subdivision 1. [LABOR ORGANIZATION.] Except when based on
4 a bona fide occupational qualification, it is an unfair
5 employment practice for a labor organization, because of race,
6 color, creed, religion, national origin, sex, marital status,
7 status with regard to public assistance, disability, sexual
8 orientation, or age, or membership or activity in a local human
9 rights commission:

10 (a) to deny full and equal membership rights to a person
11 seeking membership or to a member;

12 (b) to expel a member from membership;

13 (c) to discriminate against a person seeking membership or
14 a member with respect to hiring, apprenticeship, tenure,
15 compensation, terms, upgrading, conditions, facilities, or
16 privileges of employment; or

17 (d) to fail to classify properly, or refer for employment
18 or otherwise to discriminate against a person or member.

19 Sec. 9. Minnesota Statutes 2004, section 363A.08,
20 subdivision 2, is amended to read:

21 Subd. 2. [EMPLOYER.] Except when based on a bona fide
22 occupational qualification, it is an unfair employment practice
23 for an employer, because of race, color, creed, religion,
24 national origin, sex, marital status, status with regard to
25 public assistance, membership or activity in a local human
26 rights commission, disability, sexual orientation, or age to:

27 (a) refuse to hire or to maintain a system of employment
28 which unreasonably excludes a person seeking employment; or

29 (b) discharge an employee; or

30 (c) discriminate against a person with respect to hiring,
31 tenure, compensation, terms, upgrading, conditions, facilities,
32 or privileges of employment.

33 Sec. 10. Minnesota Statutes 2004, section 363A.08,
34 subdivision 3, is amended to read:

35 Subd. 3. [EMPLOYMENT AGENCY.] Except when based on a bona
36 fide occupational qualification, it is an unfair employment

1 practice for an employment agency, because of race, color,
2 creed, religion, national origin, sex, marital status, status
3 with regard to public assistance, disability, sexual
4 orientation, or age, or membership or activity in a local human
5 rights commission to:

6 (a) refuse or fail to accept, register, classify properly,
7 or refer for employment or otherwise to discriminate against a
8 person; or

9 (b) comply with a request from an employer for referral of
10 applicants for employment if the request indicates directly or
11 indirectly that the employer fails to comply with the provisions
12 of this chapter.

13 Sec. 11. Minnesota Statutes 2004, section 363A.08,
14 subdivision 4, is amended to read:

15 Subd. 4. [EMPLOYER, EMPLOYMENT AGENCY, OR LABOR
16 ORGANIZATION.] (a) Except when based on a bona fide occupational
17 qualification, it is an unfair employment practice for an
18 employer, employment agency, or labor organization, before a
19 person is employed by an employer or admitted to membership in a
20 labor organization, to:

21 (1) require or request the person to furnish information
22 that pertains to race, color, creed, religion, national origin,
23 sex, marital status, status with regard to public assistance,
24 disability, sexual orientation, or age, or membership or
25 activity in a local human rights commission; or, subject to
26 section 363A.20, subdivisions 1 to 7, and 8, paragraph (a),
27 clauses (1) to (5), to require or request a person to undergo
28 physical examination; unless for the sole and exclusive purpose
29 of national security, information pertaining to national
30 origin ~~is~~ as required by the United States, this state or a
31 political subdivision or agency of the United States or of this
32 state, or for the sole and exclusive purpose of compliance with
33 the Public Contracts Act or any rule, regulation, or laws of the
34 United States or of this state requiring the information or
35 examination. A law enforcement agency may, after notifying an
36 applicant for a peace officer or part-time peace officer

1 position that the law enforcement agency is commencing the
2 background investigation on the applicant, request the
3 applicant's date of birth, gender, and race on a separate form
4 for the sole and exclusive purpose of conducting a criminal
5 history check, a driver's license check, and fingerprint
6 criminal history inquiry. The form shall include a statement
7 indicating why the data is being collected and what its limited
8 use will be. No document which has date of birth, gender, or
9 race information will be included in the information given to or
10 available to any person who is involved in selecting the person
11 or persons employed other than the background investigator. No
12 person may act both as background investigator and be involved
13 in the selection of an employee except that the background
14 investigator's report about background may be used in that
15 selection as long as no direct or indirect references are made
16 to the applicant's race, age, or gender; or

17 (2) seek and obtain for purposes of making a job decision,
18 information from any source that pertains to the person's race,
19 color, creed, religion, national origin, sex, marital status,
20 status with regard to public assistance, disability, sexual
21 orientation, membership or activity in a local human rights
22 commission, or age, unless for the sole and exclusive purpose of
23 compliance with the Public Contracts Act or any rule,
24 regulation, or laws of the United States or of this state
25 requiring the information; or

26 (3) cause to be printed or published a notice or
27 advertisement that relates to employment or membership and
28 discloses a preference, limitation, specification, or
29 discrimination based on race, color, creed, religion, national
30 origin, sex, marital status, status with regard to public
31 assistance, membership or activity in a local human rights
32 commission, disability, sexual orientation, or age.

33 (b) Any individual who is required to provide information
34 that is prohibited by this subdivision is an aggrieved party
35 person under section 363A.06, subdivision 4, and 363A.28,
36 subdivisions 1 to 9.

1 Sec. 12. Minnesota Statutes 2004, section 363A.09,
2 subdivision 4, is amended to read:

3 Subd. 4. [REAL PROPERTY TRANSACTION.] It is an unfair
4 discriminatory practice for any real estate broker or real
5 estate salesperson, for the purpose of inducing a real property
6 transaction from which the person, the person's firm, or any of
7 its members may benefit financially, to represent that a change
8 has occurred or will or may occur in the composition with
9 respect to race, creed, color, national origin, sex, marital
10 status, status with regard to public assistance, sexual
11 orientation, religion, familial status, or disability of the
12 owners or occupants in the block, neighborhood, or area in which
13 the real property is located, and to represent, directly or
14 indirectly, that this change will or may result in undesirable
15 consequences in the block, neighborhood, or area in which the
16 real property is located, including but not limited to the
17 lowering of property values, an increase in criminal or
18 antisocial behavior, or a decline in the quality of schools or
19 other public facilities.

20 Sec. 13. Minnesota Statutes 2004, section 363A.15, is
21 amended to read:

22 363A.15 [REPRISALS.]

23 A reprisal includes, but is not limited to, any form of
24 intimidation, retaliation, or harassment. It is an unfair
25 discriminatory practice for any individual who participated in
26 the alleged discrimination as a perpetrator, employer, labor
27 organization, employment agency, public accommodation, public
28 service, educational institution, or owner, lessor, lessee,
29 sublessee, assignee or managing agent of any real property, or
30 any real estate broker, real estate salesperson, or employee or
31 agent thereof to intentionally engage in any reprisal against
32 any person because that person:

33 (1) Opposed a practice forbidden under this chapter or has
34 filed a charge, testified, assisted, or participated in any
35 manner in an investigation, proceeding, or hearing under this
36 chapter; or

1 (2) Associated with a person or group of persons who are
2 disabled or who are of different race, color, creed, religion,
3 sexual orientation, sex, age, familial status, marital status,
4 status with regard to public assistance, and membership or
5 activity in a local human rights commission, or national origin.

6 ~~A-reprisal-includes,-but-is-not-limited-to,-any-form-of~~
7 ~~intimidation,-retaliation,-or-harassment.~~ It is a reprisal for
8 an employer to do any of the following with respect to an
9 individual because that individual has engaged in the activities
10 listed in clause (1) or (2): refuse to hire the individual;
11 depart from any customary employment practice; transfer or
12 assign the individual to a lesser position in terms of wages,
13 hours, job classification, job security, or other employment
14 status; or inform another employer that the individual has
15 engaged in the activities listed in clause (1) or (2).

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APPENDIX
Repealed Minnesota Statutes for 05-0276

363A.03 DEFINITIONS.

Subd. 3. Board. "Board" means the state Board of Human Rights.

Subd. 29. Party in interest. "Party in interest" means the complainant, respondent, commissioner or board member.